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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|------------------------------------|-------------|----------------------|---------------------|------------------|
| 10/645,336 | 08/21/2003 | John W.L. Ogilvie | 1384.2.14C | 7599 |
| 826 | 7590 | 07/10/2008 | EXAMINER | |
| ALSTON & BIRD LLP | | | PATEL, JAGDISH | |
| BANK OF AMERICA PLAZA | | | | |
| 101 SOUTH TRYON STREET, SUITE 4000 | | | ART UNIT | PAPER NUMBER |
| CHARLOTTE, NC 28280-4000 | | | 3693 | |
| | | | | |
| | | | MAIL DATE | DELIVERY MODE |
| | | | 07/10/2008 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/645,336 | OGILVIE, JOHN W.L. |
| | Examiner | Art Unit |
| | JAGDISH N. PATEL | 3693 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 04 April 2008.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 71-82 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 71-82 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____.
 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.
 5) Notice of Informal Patent Application
 6) Other: _____.

DETAILED ACTION

1. This communication is in response to amendment filed 4/4/08.

Response to Amendment

2. Claim 71 has been amended and new claims 76-82 have been added. Claims 71-82 are currently pending.

Terminal Disclaimer

3. The terminal disclaimer filed on 4/4/08 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Patent 6,631,358 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Response to Arguments

3. Applicant's arguments with respect to rejection of claims 71-75 over Hardesty have been considered but are moot in view of the new ground(s) of rejections.
4. Nonstatutory obviousness type double patenting rejection of Claims 71-75 in light of U.S. Patent No. 6,631,358 has been withdrawn in view of the T/D.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 71-82 are rejected under 35 U.S.C. 102(e) as being anticipated by Burke (US Pat. 6112191).
3. Burke teaches all limitations of the pending claims as follows. Whereas, the examiner has identified relevant portions of the applied reference, the applicant is requested to fully review the reference patent in preparing the response to the office action.
4. Claim 71: Burke teaches a method for facilitating consumer savings, comprising the computer-assisted steps of:

(See abstract)

5. determining with a computer that a consumer-initiated transaction is a covered transaction pursuant to a savings agreement with the consumer for depositing specified funds, wherein: (see Fig. 1A-D)

covered transactions pursuant to the agreement are determined according to at least one of the time at which a transaction occurs and the transaction amount.

(See Figure 1A and col. 2 L55-60)

the specified funds comprise a deposit amount that the consumer has agreed to deposit based on the savings agreement and the consumer-initiated transaction;

(See Figure 1A and col. 2 L55-60)

and

the specified funds will be directed on the consumer's behalf to a specified savings vehicle at a financial institution, covered transactions pursuant to the agreement being determined according to at least one of the time at which a transaction occurs and the transaction amount;

(see at least Figure 1F Col. 4 L63 – col. 5 L 4) and

automatically directing with a computer the specified funds on the consumer's behalf to the specified savings vehicle at the financial institution pursuant to the savings agreement.

(see at least Fig. 1F col. 4 L 63 – col. 5 L 4 and col. 5 L 20-27)

Claim 72. The method of claim 71, comprising determining in a computer whether a credit card number appears in a data structure that identifies credit cards which are subject to savings agreements.

(see at least Col. 5 L 41-52)

Claim 73. The method of claim 71, comprising determining in a computer whether a smart card number appears in a data structure that identifies smart cards which are subject to savings agreements.

(see at least col. 4 L 11-27, “smart cards”)

Claim 74. The method of claim 71, comprising calculating in a computer a percentage of the consumer-initiated transaction.

(see at least col. 12 L 66 – col. 13 L8)

Claim 75. The method of claim 71, comprising calculating in a computer a service charge to be paid to at least one financial institution.

(see at least col. 15 L 1-18 fee charges)

Claim 76. The method of claim 71, comprising determining in a computer whether a debit card number appears in a data structure that identifies debits cards which are subject to savings agreements.

Claim 77. The method of claim 71, wherein the consumer-initiated transaction comprises debiting a debit card.

(see at least col. 5 L 20-28)

Claim 78. The method of claim 71, wherein the consumer-initiated transaction comprises charging a credit card.

(see at least Fig. 4A, col. 6 L 57 – col. 7 L 2)

Claim 79. The method of claim 71, wherein the deposit amount is a predetermined monetary amount.

(see at least Fig. 4A, col. 5 L 63 – col. 6 L 12)

Claim 80. The method of claim 71, wherein the deposit amount is a non- predetermined monetary amount.

(see at least Fig. 4A, col. 5 L 63 – col. 6 L 12)

Claim 81. The method of claim 71, wherein the deposit amount is a monetary amount based on a predetermined percentage of the consumer-initiated transaction.

(see Col. 12 L 49 – col. 13 L 8)

Claim 82. The method of claim 71, wherein the deposit amount is reduced by a service charge.

(see at least col. 15 L 1-18 fee charges)

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (571) 272-6748. The examiner can normally be reached on 800AM-630PM Mon-Tue and Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **KRAMER JAMES A** can be reached on **(571)272-6783**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/JAGDISH N PATEL/
Primary Examiner, Art Unit 3693